

its responsibilities under such regulations, and

(ii) The SIP revision accurately reflects the NO_x emissions reductions to be expected from the State's implementation of such regulations.

(2) If a State adopts an emissions trading program that differs substantively from 40 CFR part 96 in only the following respects, then such portion of the State's SIP revision is approved as set forth in paragraph (p)(1) of this section:

(i) The State may expand the applicability provisions of the trading program to include units (as defined in 40 CFR 96.2) that are smaller than the size criteria thresholds set forth in 40 CFR 96.4(a);

(ii) The State may decline to adopt the exemption provisions set forth in 40 CFR 96.4(b);

(iii) The State may decline to adopt the opt-in provisions set forth in subpart I of 40 CFR part 96;

(iv) The State may decline to adopt the allocation provisions set forth in subpart E of 40 CFR part 96 and may instead adopt any methodology for allocating NO_x allowances to individual sources, provided that:

(A) The State's methodology does not allow the State to allocate NO_x allowances in excess of the total amount of NO_x emissions which the State has assigned to its trading program; and

(B) The State's methodology conforms with the timing requirements for submission of allocations to the Administrator set forth in 40 CFR 96.41; and

(v) The State may decline to adopt the early reduction credit provisions set forth in 40 CFR 96.55(c) and may instead adopt any methodology for issuing credit from the State's compliance supplement pool that complies with paragraph (e)(3) of this section.

(3) If a State adopts an emissions trading program that differs substantively from 40 CFR part 96 other than as set forth in paragraph (p)(2) of this section, then such portion of the State's SIP revision is not automatically approved as set forth in paragraph (p)(1) of this section but will be reviewed by the Administrator for approvability in accordance with the other provisions of this section.

(q) *Stay of Findings of Significant Contribution with respect to the 8-hour standard.* Notwithstanding any other provisions of this subpart, the effectiveness of paragraph (a)(2) of this section is stayed.

(r)(1) Notwithstanding any provisions of paragraph (p) of this section, subparts A through I of part 96 of this chapter, and any State's SIP to the contrary, the Administrator will not carry out any of the functions set forth for the Administrator in subparts A through I of part 96 of this chapter, or in any emissions trading program in a State's SIP approved under paragraph (p) of this section, with regard to any ozone season that occurs after September 30, 2008.

(2) Except as provided in § 51.123(bb) with regard to an ozone season that occurs before January 1, 2012, a State whose SIP is approved as meeting the requirements of this section and that includes an emissions trading program approved under paragraph (p) of this section must revise the SIP to adopt control measures that satisfy the same portion of the State's NO_x emission reduction requirements under this section as the State projected such emissions trading program would satisfy.

[63 FR 57491, Oct. 27, 1998, as amended at 63 FR 71225, Dec. 24, 1998; 64 FR 26305, May 14, 1999; 65 FR 11230, Mar. 2, 2000; 65 FR 56251, Sept. 18, 2000; 69 FR 21642, Apr. 21, 2004; 70 FR 25317, May 12, 2005; 70 FR 51597, Aug. 31, 2005; 73 FR 21538, Apr. 22, 2008; 76 FR 48353, Aug. 8, 2011]

§ 51.122 Emissions reporting requirements for SIP revisions relating to budgets for NO_x emissions.

(a) As used in this section, words and terms shall have the meanings set forth in § 51.50.

(b) For its transport SIP revision under § 51.121, each state must submit to EPA NO_x emissions data as described in this section.

(c) Each revision must provide for periodic reporting by the state of NO_x emissions data to demonstrate whether the state's emissions are consistent with the projections contained in its approved SIP submission.

(1) For the every-year reporting cycle, each revision must provide for reporting of NO_x emissions data every year as follows:

§ 51.123

40 CFR Ch. I (7–1–12 Edition)

(i) The state must report to EPA emissions data from all NO_x sources within the state for which the state specified control measures in its SIP submission under § 51.121(g), including all sources for which the state has adopted measures that differ from the measures incorporated into the base-line inventory for the year 2007 that the state developed in accordance with § 51.121(g).

(ii) If sources report NO_x emissions data to EPA for a given year pursuant to a trading program approved under § 51.121(p) or pursuant to the monitoring and reporting requirements of 40 CFR part 75, then the state need not provide an every-year cycle report to EPA for such sources.

(2) For the three-year cycle reporting, each plan must provide for triennial (*i.e.*, every third year) reporting of NO_x emissions data from all sources within the state.

(3) The data availability requirements in § 51.116 must be followed for all data submitted to meet the requirements of paragraphs (b)(1) and (2) of this section.

(d) The data reported in paragraph (b) of this section must meet the requirements of subpart A of this part.

(e) Approval of ozone season calculation by EPA. Each state must submit for EPA approval an example of the calculation procedure used to calculate ozone season emissions along with sufficient information to verify the calculated value of ozone season emissions.

(f) Reporting schedules.

(1) Data collection is to begin during the ozone season 1 year prior to the state's NO_x SIP Call compliance date.

(2) Reports are to be submitted according to paragraph (b) of this section.

(3) Through 2011, reports are to be submitted according to the schedule in Table 1 of this paragraph. After 2011, triennial reports are to be submitted every third year and annual reports are to be submitted each year that a triennial report is not required.

TABLE 1—SCHEDULE FOR SUBMITTING REPORTS

Data collection year	Type of report required
2005	Triennial.

TABLE 1—SCHEDULE FOR SUBMITTING REPORTS—Continued

Data collection year	Type of report required
2006	Annual.
2007	Annual.
2008	Triennial.
2009	Annual.
2010	Annual.
2011	Triennial.

(4) States must submit data for a required year within the time specified after the end of the inventory year for which the data are collected. The first inventory (the 2009 inventory year) and all subsequent years will be due 12 months following the end of the inventory year, *i.e.*, the 2009 inventory must be reported to EPA by December 31, 2010.

(g) Data reporting procedures are given in subpart A. When submitting a formal NO_x Budget Emissions Report and associated data, states shall notify the appropriate EPA Regional Office.

[73 FR 76558, Dec. 17, 2008]

§ 51.123 Findings and requirements for submission of State implementation plan revisions relating to emissions of oxides of nitrogen pursuant to the Clean Air Interstate Rule.

(a)(1) Under section 110(a)(1) of the CAA, 42 U.S.C. 7410(a)(1), the Administrator determines that each State identified in paragraph (c)(1) and (2) of this section must submit a SIP revision to comply with the requirements of section 110(a)(2)(D)(i)(I) of the CAA, 42 U.S.C. 7410(a)(2)(D)(i)(I), through the adoption of adequate provisions prohibiting sources and other activities from emitting NO_x in amounts that will contribute significantly to nonattainment in, or interfere with maintenance by, one or more other States with respect to the fine particles (PM_{2.5}) NAAQS.

(2)(a) Under section 110(a)(1) of the CAA, 42 U.S.C. 7410(a)(1), the Administrator determines that each State identified in paragraph (c)(1) and (3) of this section must submit a SIP revision to comply with the requirements of section 110(a)(2)(D)(i)(I) of the CAA, 42 U.S.C. 7410(a)(2)(D)(i)(I), through the adoption of adequate provisions prohibiting sources and other activities from emitting NO_x in amounts that will contribute significantly to nonattainment